

Application No. 10/502,039
Amendment dated August 16, 2006
Reply to Office Action of May 16, 2006

Docket No.: 60680-1948
(PATENT)

REMARKS/ARGUMENTS

Applicants have carefully reviewed the Office Action dated May 16, 2006. Applicants thank Examiner Maples for his detailed review of the pending claims. Claims 1-4 and 14-23 will be pending upon entry of this response, although claims 14 and 15 are currently withdrawn. Claim 20 has been amended to address a procedural issue as noted below. However, the scope of claim 20 is not changed by the amendment. At least for the reasons set forth below, Applicants respectfully traverse the foregoing rejections. Further, Applicants believe that there are also reasons other than those set forth below why the pending claims are patentable, and reserve the right to set forth those reasons, and to argue for the patentability of claims not explicitly addressed herein, in future papers. Applicants request reconsideration of the pending claims in view of the following remarks.

I. Rejections of claims under 35 U.S.C. § 112

Claims 20-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The Examiner's attention is directed to claim 20, which has been amended as suggested to properly recite Markush terminology. Reconsideration and withdrawal of the present rejection are therefore respectfully requested.

II. Rejection of claims 1, 15-25 and 28-33 under 35 U.S.C. § 102 (e) – Kearn

Claims 1-4 and 16-23 are rejected under 35 U.S.C. 102(b) as being anticipated by FR-2810795 ('795). Applicants respectfully traverse the rejection.

To anticipate a claim, the reference must teach every element of the claim. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention

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must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Claim 1 recites "A bipolar plate for fuel cell stacks which comprises... a frame which is open in the central region as well as an inner part arranged in the central region, wherein the frame and the inner part are elastically coupled to one another."

It is respectfully submitted that the '795 reference neither teaches nor suggests such an arrangement. The Examiner's attention is directed to Figure 3 of the '795 reference, which clearly illustrates a frame (11) which encloses two metallic plates (30). The metallic plates (30) further enclose separator elements (32, 34, 35). In contrast to the present application, frame (11) clamps metallic plates (30) on both sides of metallic plates (30), and prevents any elastic coupling therebetween. The Examiner has failed to show how the '795 reference even suggests a "frame and... inner part... elastically coupled to one another," let alone how the reference describes the claimed limitation in "complete detail" as required by *Richardson*. The Examiner is respectfully requested to withdraw the present rejection or at least demonstrate how the '795 reference teaches or suggests a "frame and... inner part... elastically coupled to one another."

Accordingly, Applicants believe claim 1 is in condition for allowance. Further, claims 2-4 and 16-23 depend from claim 1, and are therefore also in condition for allowance. Moreover, the dependent claims recite independently patentable subject matter. Merely by way of example, the Examiner has not demonstrated how the prior art teaches or suggests an elastic element connecting the inner part and frame, as recited in claim 2. The prior art also fails to disclose or suggest an elastomer peripheral moulding, as recited in claim 3. As a final example, a bordering for holding the inner part or elastic element is neither disclosed nor suggested by the prior art. Reconsideration and withdrawal of the present rejection are therefore respectfully requested.

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CONCLUSION

All rejections have been addressed. In view of the above, the presently pending claims are believed to be in condition for allowance. Accordingly, reconsideration and allowance are respectfully requested and the Examiner is respectfully requested to pass this application to issue. It is believed that any fees associated with the filing of this paper are identified in an accompanying transmittal.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 18-0013, under Order No. 60680-1948 from which the undersigned is authorized to draw. To the extent necessary, a petition for extension of time under 37 C.F.R. 1.136(a) is hereby made, the fee for which should be charged against the aforementioned account.

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Respectfully submitted,

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